



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

COPY MAILED

JUN 23 2005

In re Patent No. 6,777,036 :
Issued: August 17, 2004 :
Application No. 09/876,944 : PATENT TERM ADJUSTMENT
Filed: June 8, 2001 :
Atty. Dkt. No.: 8317-120-999 :

OFFICE OF PETITIONS

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed October 18, 2004, requesting that the above-identified patent be accorded a patent term adjustment of 121 days.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,777,036 on August 17, 2004. The instant request for reconsideration was timely filed October 18, 2004 in accordance with 37 CFR 1.705(d), August 17th 2004 having fallen on a Sunday.

The patent issued with a PTA of 56 days. Applicants argues that the adjustment of 121 days should not have been reduced 65 days in connection with the "miscellaneous communication" filed June 14, 2004.

A review of the application history reveals that an adjustment of 104 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1). An additional adjustment of 17 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2).

On June 14, 2004, applicants submitted a statement of limited recognition under 37 CFR 10.9(b) resulting in the adjustment of 121 days being reduced 65 days under 37 CFR 1.704(c)(10). Submission of such statement under 37 CFR 10.9(b) is considered within the same context as submission of a power of attorney. See, MPEP 2732 and 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). Accordingly, the Office errantly reduced the adjustment of 121 days as submission of documents related to power of attorney are not considered a failure to engage in reasonable

efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(10).

Therefore, at the time of issuance, the patent was entitled to a PTA 121 days, as argued by applicants.

The PTA indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of 121 days.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 121 days.

The required application fee of \$200.00 has been charged to Deposit Account No. 50-0310.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Karin Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy